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(House Bill No. 197.)

AN ACT

To provide for probation under suspension of the imposition of sentence, and to provide a system of local administration of probation, parole and conditional pardon; and for such purposes enacting supplementary sections 1554-1, 1554-2, 1554-3, 1554-4, 1554-5, 1554-6, 1663-1, 1871-1 and 1871-2 of the General Code, and amending sections 13696, 13706, 13709, 13710, 13711, 13712 and 13714 of the General Code, and repealing sections 2210, 2211, 2213, 2214 and 13715 of the General Code.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. Supplementary sections 1554-1, 1554-2, 1554-3, 1554-4, 1554-5, 1554-6, 1663-1, 1871-1 and 1871-2 of the General Code are hereby enacted reading as follows:

Sec. 1554-1. The judge of the court of common pleas of a county, or the judges of such court in joint session, if they deem advisable, may with the concurrence of the board of county commissioners establish a county department of probation. The establishment of such department shall be entered upon the journal of said court and the clerk thereof shall thereupon certify a copy of such order to each elective officer and board of the county. Such department shall consist of a chief probation officer, and such number of other probation officers and employes, clerks and stenographers, as may be fixed from time to time by the judge or judges. The judge or judges of the common pleas court of the county shall appoint to positions within the department, fix the salaries of appointees within the amount appropriated therefor by the board of county commissioners and supervise their work; provided that no person shall be appointed as probation officer who does not possess such training, experience and other qualifications as may be prescribed by the department of public welfare of the state. All positions within such department shall be in the classified service of the civil service of the county.

Probation officers shall, in addition to their respective salaries receive their necessary and reasonable traveling and other expenses incurred in the performance of their duties. Such salaries and expenses shall be paid monthly from the county

treasury in the manner provided by law for the payment of the compensation of other appointees of the judge or judges of the common pleas court.

Sec. 1554-2. The court of common pleas of a county in which a county department of probation has been established, in addition to employing such department in investigation and in the administration of its own orders of probation as provided by law, shall receive into the legal control and supervision of said department any person resident within the county who may have been placed upon probation by order of any other court exercising criminal jurisdiction in this state, whether within or without such county, upon the request of such court and subject to the continuing jurisdiction thereof; and said court of common pleas shall also receive into the legal custody or supervision of said county probation department any person paroled or conditionally pardoned from a penal, reformatory or correctional institution and residing or remaining in the county, if requested by the department of public welfare, or other authority having power to parole from any such institution.

Sec. 1554-3. In all cases in which the county department of probation acquires custody of or supervision over a person paroled or conditionally pardoned from a state penal reformatory or correctional institution, the common pleas court and the department shall be governed by the rules and regulations of the state board of clemency applicable to such cases, and by the laws of the state applicable thereto. In the case of other persons placed in its control or under its supervision the department shall administer the orders and conditions of the authority so placing such persons. The common pleas court may exercise supervision over the county department of probation by adopting rules and regulations not inconsistent with law or with the rules and regulations of the state board of clemency which shall be observed and enforced by the probation officers of the department,

Sec. 1554-4. The common pleas court of a county in which a department of probation is established shall have and exercise the power conferred by sections 2146, 2148-9 and 2166 of the General Code, to discharge from parole supervision and terminate the sentence of any person under sentence placed in or committed to the custody of such department of probation. Whenever such power is exercised, the fact and the grounds thereof shall be certified by such court to the governor, who shall thereupon restore such person to the privileges of citizenship.

Sec. 1554-5. The common pleas court of a county in which a county department of probation is established shall, in the rules or regulations through which the supervision of such department is exercised, or otherwise, require such department to furnish to each person on probation or parole under its supervision or in its custody, a written statement of the conditions of probation or parole and instruct him regarding the same; the court shall in like manner further require said department to keep

STATE OF OHIO

PROBATION

informed concerning the conduct and condition of each person in its custody or under its supervision by visiting, the requiring of reports, and otherwise; to use all suitable methods, not inconsistent with the conditions of probaton or parole, to aid and encourage such persons and to bring about improvement in their conduct and condition; to keep detailed records of the work of the department, accurate and complete accounts of all moneys collected from persons under its supervision or in its custody, and keep or give receipts therefor; and to make such reports to the state department of public welfare as it may require.

Sec. 1554-6. For violation of the conditions of parole, or of the rules and regulations governing persons on parole, any county probation officer may arrest a person on parole in the custody of the county department of probation with which such officer is connected. Upon the written order of the chief probation officer of the county department having custody of a person on parole violating such conditions, rules and regulations, any probation officer, or any sheriff, constable or police officer shall arrest such person. A person arrested as provided in this section may be confined in the jail or juvenile detention home, as the case may be, of the county in which he is arrested, until released or removed to the proper institution as herein provided. Upon the written order of the chief probation officer of the county department having custody, such person may be released on parole or re-imprisoned or re-committed to the proper institution. From an order of re-imprisonment or re-commitment, an appeal may be taken to the state board of clemency, the decision of which shall be final. The manner of taking such appeal, and the disposition of the appellant pending the making and determination thereof, shall be governed by the rules and regulations and orders of said board.

Sec. 1663-1. When a county department of probation has been established in the county and the judge designated to exercise juvenile jurisdiction therein does not appoint a salaried probation officer, all powers and duties of the probation officer or officers provided for in this chapter shall vest in and be imposed upon such county department of probation.

Sec. 1871-1. The department of public welfare shall exercise general supervision over the work of all probation and parole officers throughout the state, including those appointed in county probation departments and those appointed by police and municipal judges and judges exercising juvenile jurisdiction. It shall collect and publish statistical and other information and make recommendations as to the operation of the probation and parole system. It shall keep itself informed as to the work of probation and parole officers, and shall from time to time inquire into their conduct and efficiency. It may require reports from probation and parole officers on blanks furnished by the department. It shall each year inform courts, and probation and parole officers of any legislation directly affecting probation or parole

and shall each year publish a list of all probation and parole officers in the state. It shall endeavor, by such means as may seem to it most suitable, to secure the effective application of the probation and parole system and enforcement of the probation and parole law in all parts of the state. In its annual report it shall show results of the probation and parole system as administered in the various localities of the state, with any suggestions or recommendations it may consider wise for the more effectual accomplishment of the general purposes of this chapter. The department in the discharge of its duties shall have access to all offices and records of probation and parole departments and officers. The department may direct an investigation by one or more of its members of the work of any probation and parole departments or officer and for this purpose, the member or members designated to make such investigation are hereby empowered to issue compulsory process for the attendance of witnesses and the production of books and papers, to administer oaths, and to examine persons under oath.

Sec. 1871-2. In case of disobedience on the part of any person or persons, to comply with any order made or subpoena issued by such member or members, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated by or before such member or members, the court of common pleas of the county in which the person resides, or a judge thereof, on application of such member or members, shall compel obedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Each officer who serves a subpoena issued by such member or members shall receive the same fees as a sheriff, and each witness who shall appear before such member or members, by his or their order, shall receive for his attendance, the fees and mileage now provided for witnesses in civil cases in courts of common pleas, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper departmental vouchers.

No witness subpoenaed at the instance of the officers whose work is under investigation, shall be entitled to compensation from the state for attendance or travel, unless the department shall certify that his testimony was material to the matter investigated.

SECTION 2. Sections 13696, 13706, 13709, 13710, 13711, 13712 and 13714 of the General Code are hereby amended to read as follows:

Sec. 13696. When a person is convicted of an offense punishable, either in whole or in part, by a fine, the court, by motion, may hear testimony in mitigation of the sentence. The court shall hear such testimony at the term at which the motion is made, or may continue the case to the next term on like terms as the case might have been continued before verdict or confession. The prosecuting attorney

shall attend such proceedings on behalf of the state, and offer testimony necessary to give the court a true understanding of such case. The court upon such motion may determine whether sentence ought immediately to be imposed or the defendant be placed on probation as provided by law. When a person is convicted of any offense the court may on its own motion direct the department of probation of the county wherein the defendant resides, if such there be, or its own regular probation officer or officers, to make such inquiries and reports as the court may require concerning the defendant. The court may also on its own motion appoint not to exceed two psychologists or psychiatrists who shall make such report or reports concerning the defendant as the court may require for the purpose of assisting the court in the disposition of the case. Each such psychologist or psychiatrist so appointed shall be entitled to receive a fee which shall be fixed by the court and taxed in the costs of the case. All reports provided for herein shall be made in writing in open court and in the presence of the defendant, excepting in such misdemeanor cases in which sentence may be pronounced in the absence of the defendant as provided by law; a copy of each such report shall be furnished to the defendant, if present, who shall have the right to examine the person or persons making the same under oath as to any matter or thing therein contained.

Sec. 13706. In prosecutions for crime, except as mentioned in section 6212-17 of the General Code, and as hereinafter provided, where the defendant has pleaded or been found guilty and it appears to the satisfaction of the court or magistrate that the character of the defendant and the circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and that the public good does not demand or require that he shall be immediately sentenced, such court or magistrate may suspend the imposition of the sentence and place the defendant on probation in the manner provided by law, and upon such terms and conditions as such court or magistrate shall determine.

Sec. 13709. The order of probation provided for in section thirteen thousand seven hundred and six of the General Code shall place the defendant under the control and supervision of the county department of probation, if there be such county department; otherwise, if the defendant resides in the county wherein the trial is had, the court may place him on probation in charge of a probation officer designated as provided in section thirteen thousand seven hundred and twelve of the General Code. Provided, however, that in cases in a police court, municipal court or other court of criminal jurisdiction having a regular probation officer or officers, such order shall place a defendant who resides in the county wherein trial is had under the control and supervision of such regular probation officer or officers pursuant to the law under which such officer or officers shall have been appointed. If the defendant does not reside in the county wherein the trial is had, but a

county department of probation has been established as provided by law in the county in which he resides, such order of probation may request the common pleas court of the county wherein the defendant resides to receive the defendant into the control or supervision of such county department of probation, subject to the jurisdiction of the trial court over and with respect to the person of the defendant, and to the rules and regulations governing such department of probation.

Sec. 13710. Upon entry in the records of the court of the order for the probation provided for in this chapter, the defendant shall be released from custody of the court as soon as the requirements and conditions required by the court supervising the probation have been properly and fully met, but shall continue under the control and supervision of the department of probation or the probation officer, as the case may be, to the extent required by law, the terms and conditions of the order of probation, and the rules and regulations governing said department of probation.

Sec. 13711. The probation provided for in this chapter shall continue for such period as the trial court or the magistrate shall determine, not exceeding the maximum term or terms of imprisonment, if any, for which he might be sentenced, and in any event not to exceed five years. During such probationary period any field officer or probation officer may arrest the defendant without a warrant and bring him before the court or magistrate having power to impose sentence. Such arrest may also be made by any sheriff, constable or other police officer upon the written order of the chief probation officer, if the defendant be under the supervision of a county probation department, or on the warrant of the judge or magistrate, if the defendant be under the supervision of a probation officer or so designated by the court or magistrate. When the defendant is brought before the court or magistrate, such court or magistrate shall immediately inquire into the conduct of the defendant and may terminate the probation and impose any sentence which might originally have been imposed, or continue the probation and remand the defendant to the custody of the probation authority, at any time during the probationary period fixed as herein provided when the ends of justice will be served and the good conduct of the person so held shall warrant it, the court or magistrate may terminate the period of probation. At the end or termination of the period of probation, the jurisdiction of the court or magistrate to impose sentence shall cease and the defendant shall thereupon be discharged.

Sec. 13712. When the trial court has no regular probation officer or officers, or no county department of probation has been established, no order for probation shall be issued, unless the court or magistrate designate some suitable person to act as probation officer in such case, who shall make written reports, at designated periods not less than once each month, concerning the conduct of a probationer in his charge.

Sec. 13714. For the purpose of proceedings in error, the order suspending the imposition of sentence and placing the defendant on probation authorized by this chapter, shall be deemed the final order from which such proceedings may be prosecuted.

SECTION 3. Said original sections 13696, 13706, 13709, 13710, 13711, 13712 and 13714 of the General Code and sections 2210, 2211, 2213, 2214, and 13715 of the General Code are hereby repealed.

SECTION 4. In addition to the proceedings and causes of proceedings saved from the effect of this act by section 26 of the General Code, this act shall not affect the conditions and effect of an order of probation heretofore made or any conditional pardon or parole heretofore granted or the supervision or custody of persons on probation or parole. Nothing in this act shall be deemed to affect the laws relating to probation in the juvenile courts, except as herein specifically provided, nor to repeal any laws authorizing the appointment of probation officers by police or municipal courts.

Passed March 24, 1925.

Filed in the office of Secretary of State, April 21, 1925.

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THE OHIO STATE UNIVERSITY BOOK DEPOSITORY



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